

# SENATE BILL REPORT

## HB 1376

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As of March 17, 2021

**Title:** An act relating to registration of land titles.

**Brief Description:** Concerning registration of land titles.

**Sponsors:** Representative Fey.

**Brief History:** Passed House: 3/5/21, 83-14.

**Committee Activity:** Housing & Local Government: 3/17/21.

### Brief Summary of Bill

- Repeals the Torrens Act registration system for real property.
- Provides for the withdrawal of real property from the registration system and the recordation of the certificate of withdrawal.

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## SENATE COMMITTEE ON HOUSING & LOCAL GOVERNMENT

**Staff:** Bonnie Kim (786-7316)

**Background:** Recording System. There is not a single statewide recording system in which real property records are kept. The records for property within each county are kept at the county level by the county auditor. County auditors are required to keep both a grantor and a grantee index of recorded documents. The grantor-grantee indices include the following information:

- date of recording;
- grantor's name;
- grantee's name;
- nature of document recorded;
- volume and page where recorded or the auditor's file number;
- remarks;

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- description of property; and
- assessor's property tax parcel or account number.

To determine what instruments, such as mortgages and easement deeds, have been recorded on a piece of property, a title searcher would search the grantor-grantee indices for references to every recorded document regarding that piece of property. The title searcher would then examine each recorded document by going to the volume and page where recorded. The compilation of all of the documents regarding a single piece of property is often referred to as an abstract of title. People rely upon title insurance companies to search the records and prepare an abstract of title.

Torrens Registration System. In 1907, Washington adopted the Torrens real property registration system as an optional alternative to the recording system. Although both the recording and the registration systems are housed in the county auditor's office, the two systems are separate from one another.

The Torrens system is similar to the registration system used for cars and boats, but involves a judicial component as well. A person believing they have title to land begins the registration process by filing an application, together with an abstract of title, with the court and with the auditor's office. Once the application is filed, the court refers the matter to a court-appointed attorney called the examiner of titles, who then examines the title and files an opinion with the clerk with respect to the applicant's title.

Assuming the opinion is favorable, the court issues a summons. The applicant is the plaintiff, and any persons in possession or appearing to have an interest are defendants. If the action concludes with a judgment, default or otherwise, a decree of confirmation of title and registration is entered quieting title to the property. The decree is not final for 90 days; it is subject to appeal. Once final, the court decree is binding and, based on this decree, the county auditor issues the first certificate of title, listing the owner as well as any others whom the court has determined in the decree to have any interest in the property.

At this point, the title is considered a registered title. Alphabetical and tract indices of registered land are kept by the county auditor. Once an original certificate of title is issued, any subsequent transaction that affects the title must be registered rather than recorded.

There is a statutory means for removing land from registered title and returning it to recorded title that involves the auditor, but does not require court action.

**Summary of Bill:** The Torrens Act is repealed in its entirety. A several-step process for removing registered property from the registration system and placing it in the recording system is provided, as follows:

- by December 1, 2021, the auditor shall send each owner of registered land a written notice informing the owner that the registry system has been discontinued, that the property will cease to be subject to registration on July 1, 2022, and that, for no

charge, the owner may withdraw the property from the registration system and cause it to be restored to the recording system.

1. The notice must also contain a statement that the validity and priority of lien interest or ownership is not affected by the withdrawal process;
- by July 1, 2022, the owner of registered property may surrender the certificate of title to the auditor; such surrender shall be considered as a withdrawal; and
- upon surrender, the auditor shall, without charge:
  1. accept the surrender;
  2. issue a certificate of withdrawal; and
  3. cause to be recorded the certificate of withdrawal and all instruments filed that relate to outstanding interests in such real property and to outstanding liens, mortgages, and other charges upon the property referred to in or noted upon the certificate of title.

If the real property is not voluntarily withdrawn from the registration system by its owner, it shall cease to be subject to the provisions of the Torrens registration system as of July 1, 2022. On this date, the auditor shall cause the registration volumes and indices to be closed and placed in the permanent deed records. All properties remaining in the registration are automatically withdrawn as of that date, and the auditor is to issue a certificate of withdrawal and record the certificate and other associated instruments.

It is expressly provided that the repeal of the Torrens Act does not affect any right accrued or liability incurred under those statutes prior to repeal.

**Appropriation:** None.

**Fiscal Note:** Available.

**Creates Committee/Commission/Task Force that includes Legislative members:** No.

**Effective Date:** The bill contains several effective dates. Please refer to the bill.

**Staff Summary of Public Testimony:** PRO: This bill was brought forward by county auditors. The Torrens Act is only operational in five counties. Some people are trying to use this system to avoid property taxes or foreclosure where the system does not exist. Only 4000 parcels are registered under the Torrens Act system. Under the Torrens Act, the county government acts as the guarantor and is not sufficiently funded to settle claims. Torrens represents 0.001 percent of properties in the state. Torrens is costly to operate and it is difficult to find qualified persons to do the work.

**Persons Testifying:** PRO: Representative Jake Fey, Prime Sponsor; Josie Delvin, Washington State Association of County Clerks; Megan Powell, Washington Land Title Association, First American Title Insurance Company; Vicky Dalton, Spokane County Auditor, Washington State Association of County Auditors; Paul Andrews, Kitsap County

Auditor.

**Persons Signed In To Testify But Not Testifying:** No one.